

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TODD IVEY, SR.,

Case No. _____

Plaintiff,

Hon. _____

vs.

NAVIENT SOLUTIONS, INC., and
EQUIFAX INFORMATION SERVICES, LLC,

Defendants.

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NOTICE OF REMOVAL

Defendant Navient Solutions, Inc. ("NSI"), by its undersigned counsel, gives notice of removal of this case from the 41B District Court, State of Michigan, in

which it is currently pending, to the United States District Court for the Eastern District of Michigan, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446. In support, and for the purposes of removal only, NSI states the following:

1. On November 14, 2016, Plaintiff Todd Ivey, Sr. filed a lawsuit in the 41B District Court, State of Michigan, captioned *Todd Ivey, Sr. v. Navient Solutions, Inc. & Equifax Information Services, LLC*. The case was assigned case number 16-10652H-GC.

2. On November 28, 2016, NSI was served with a copy of the Summons and Complaint.

3. A party may timely remove a pending state court action to federal district court if the federal district court would have had original jurisdiction over the state court action. 28 U.S.C. § 1441.

4. Removal is appropriate under the Court's federal question jurisdiction pursuant to 28 U.S.C. § 1331. Federal courts have original jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the United States. 28 U.S.C. § 1331. In his Complaint, Plaintiff alleges that NSI and its Co-defendant Equifax Information Services, LLC ("Equifax") violated the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* Therefore, this Court has original jurisdiction over this matter.

5. This Notice of Removal is being filed within thirty (30) days of NSI's receipt of the initial pleading setting forth the claims for relief upon which this action is based and upon which it could first be ascertained that this case is removable. Therefore, removal is timely under 28 U.S.C. § 1446(b).

6. Upon information and belief, Co-defendant Equifax has not been served with a summons or a copy of Plaintiff's Complaint. Therefore, its consent to this Notice of Removal is not required. *See* 28 U.S.C. § 1446(b)(2)(A) ("When a civil action is removed solely under section 1441(a), all defendants who have been properly joined and served must join in or consent to the removal of the action."); *Underwood v. Ciena Health Care Mgmt., Inc.*, No. 08-11024, 2008 WL 1776961, at *1 n.2 (E.D. Mich. Apr. 17, 2008) ("[T]he consent of an unserved defendant is not required for removal.").

7. The Summons and Complaint constitute the only process, pleadings, and orders that have been filed in this action to date. A copy of the Summons and Complaint is attached as **Exhibit A**.

8. Notice of this removal is being given to the 41B District Court and Plaintiff concurrent with the filing of this Notice of Removal. A copy of the notice being given to the 41B District Court is attached as **Exhibit B**.

9. Because the Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1331, and because all other prerequisites for removal have been

satisfied, this matter may be removed pursuant to 28 U.S.C. § 1441.

WHEREFORE, NSI respectfully requests that the United States District Court for the Eastern District of Michigan accept this Notice of Removal and exercise jurisdiction over this action.

Respectfully submitted,

OGLETREE, DEAKINS, NASH, SMOAK
& STEWART, PLLC

s/Benjamin A. Anchill
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Dated: December 22, 2016

CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2016, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to such filing to all ECF participants. I further certify that I will serve a copy of such filing via FedEx on the following: Gary N. Nitzin and Travis Shackelford, Plaintiff's Attorney, Michigan. Consumer Credit Lawyers, 22142 W. Nine Mile Road, Southfield, MI 48033

s/Benjamin A. Anchill
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